

BRANDON | SMERBER  
LAW FIRM

139 E. WARM SPRINGS RD.  
LAS VEGAS, NEVADA 89119  
T. 702.380.0007 | F. 702.380.2964

1 **LEW BRANDON, JR., ESQ.**  
2 Nevada Bar No. 5880  
3 **ANDREW GUZIK, ESQ.**  
4 Nevada Bar No. 12758  
5 **SARA PASQUALE, ESQ.**  
6 Nevada Bar No. 14412  
7 **BRANDON | SMERBER LAW FIRM**  
8 139 E. Warm Springs Rd.  
9 Las Vegas, Nevada 89119  
10 Office (702) 380-0007; Fax (702) 380-2964  
11 [l.brandon@bsnv.law](mailto:l.brandon@bsnv.law)  
12 [a.guzik@bsnv.law](mailto:a.guzik@bsnv.law)  
13 [s.pasquale@bsnv.law](mailto:s.pasquale@bsnv.law)  
14 *Attorneys for Defendants,*  
15 *ALBERTSONS, LLC dba ALBERTSONS*

16 **UNITED STATES DISTRICT COURT**  
17 **DISTRICT OF NEVADA**

18  
19 KESIA GLADNEY, | CASE NO.:  
20 Plaintiff,  
21 v.  
22 ALBERTSONS, LLC, a Delaware Company  
23 d/b/a ALBERTSONS; DOES I-V; ROE  
24 CORPORATIONS I-X,  
25 Defendants.

26 **DEFENDANT ALBERTSONS, LLC'S NOTICE OF REMOVAL OF ACTION TO**  
27 **UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a)**

28  
29 Defendant, ALBERTSONS, LLC, by its undersigned attorney, LEW BRANDON, JR.,  
30 ESQ., ANDREW GUZIK, ESQ., and SARA PASQUALE, ESQ., of the BRANDON | SMERBER  
31 LAW FIRM, hereby removes the above-captioned case to the United States District Court, Clark  
32 County, Nevada, where the action is now pending, pursuant to 28 USC § 1441 (a) and states as  
33 follows:  
34  
35

1       1.     The above entitled action was commenced in the Eighth Judicial District Court,  
2 Clark County, State of Nevada on May 13, 2020, bearing Case No. A-20-814978-C. The action  
3 is now pending in the Eighth Judicial District Court, Clark County, State of Nevada.

4       2.     Plaintiff filed her initial Complaint on or about May 13, 2020. Plaintiff's  
5 Complaint fails to state that this case is one which is or has become removable. *See Harris v.*  
6 *Bankers Life & Cas. Co.*, 425 F.3d 689 (9th Cir. 2005).

7       3.     On May 19, 2020, Plaintiff served upon Defendant, Albertsons, LLC, her  
8 Complaint wherein Plaintiff alleges that she sustained injuries to her neck, because of a slip and  
9 fall. Plaintiff named the incorrect parties and an amended complaint was filed on June 3, 2020.

10      4.     Plaintiff served the amended complaint on June 3, 2020 and an Answer to  
11 Plaintiff's complaint was filed on June 18, 2020.

12      5.     On June 25, 2020 Plaintiff filed a Request for exemption from arbitration  
13 alleging \$28,056.03 in past medical specials and Defendant filed an opposition to same on June  
14 26, 2020.

15      6.     The Clark County ADR Commissioner ordered Plaintiff to supplement its  
16 Petition by July 15, 2020. Plaintiff failed to file any supplemental facts to support Plaintiff's  
17 Request for exemption from arbitration and the ADR commissioner ordered on July 20, 2020 that  
18 the matter is mandated to the Nevada mandatory arbitration program with a cap of \$50,000.00.

19      7.     On September 4, 2020, Plaintiff filed a second request for exemption from  
20 arbitration now alleging past medical specials totaling Forty-Five Thousand Eight Hundred  
21 Thirty-One Dollars & 60/100 (\$45,831.60) from her hospitalization for a strain of muscle, fascia  
22 and tendon on the left side of her neck and cervicalgia with residual pain.

23      8.     This Notice of Removal was filed timely as it was filed within thirty (30) days of  
24 service of Plaintiff's Second Request for Exemption from Arbitration served upon Albertsons,

1 LLC, on September 4, 2020 which was the first motion, order or other paper from which it could  
2 first be ascertained that this case is one which is or has become removable. *See* 28 U.S.C. 1446(b);  
3 Harris, 425 F.3d 689.

4       9. Pursuant to Fed. R. Civ. P. 6 (a), the last day of the thirty (30) day period set forth  
5 under 28 U.S.C. 1446(b) is October 5, 2020. *See* 28 U.S.C. 1446(b); Harris v. Bankers Life &  
6 Cas. Co., 425 F.3d 689 (9th Cir. 2005).

7       10. This action concerns an allegation that the Defendant negligently caused, allowed  
8 and failed to warn of a dangerous condition, causing injury to Plaintiff.

9       11. At the commencement of this action and at the time of the filing of this Notice of  
10 Removal, Plaintiff, KESIA GLADNEY was, and now is, a citizen of the State of Nevada.

11       12. At the commencement of this action and at all times herein, Defendant,  
12 ALBERTSONS, LLC, was, and now is, a limited liability company duly organized and existing  
13 under the laws of the State of Delaware with its principal place of business in Boise, Idaho, and  
14 therefore, is a citizen of the State of Delaware and Idaho.

15       13. A limited liability company is a citizen of every State of which its members are  
16 citizens. *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006).

17       14. Defendant, Albertsons, LLC's sole managing member is Albertson's Companies,  
18 Inc.

19       15. Albertson's Companies, Inc., is a corporation organized under the laws of the  
20 State of Delaware with its principal place of business in Boise, Idaho. *See, Exhibit "I."*

21       16. Corporations are citizens of any State in which they are incorporated or have their  
22 principal place of business. *Id.*; 28 U.S.C. § 1332(c)(1).

23       17. Thus, Albertson's Companies, Inc., is a citizen of the State of Delaware and  
24 Idaho.

1       18. Therefore, for diversity purposes, Albertsons, LLC, is a citizen of the State of  
2 Delaware and Idaho.

3       19. Documents showing that Albertson's Companies, Inc., was organized under the  
4 laws of the State of Delaware with its principal place of business in Boise, Idaho are attached as  
5 Exhibit "1."

6       20. DOES I through V; and ROE CORPORATIONS I through X are named and sued  
7 fictitiously and their citizenship is disregarded as a matter of law for purposes of removal on  
8 grounds of diversity jurisdiction. 28 U.S.C. § 1441(a).

9       21. Plaintiff, KESIA GLADNEY, alleges that she is and was at all relevant times  
10 mentioned in her Complaint, a citizen of the State of Nevada, residing in the County of Clark.  
11 Based upon Plaintiff's allegations, Defendant is informed and believes that Plaintiff, KESIA  
12 GLADNEY, is a citizen of the State of Nevada, County of Clark.

13       22. Because, at the time of commencement of this action, Defendant is a citizen of  
14 Delaware and Idaho, and Plaintiff is a resident of the State of Nevada, County of Clark, complete  
15 diversity of citizenship exists between Plaintiff and Defendant. *See* 28 U.S.C. § 1332.

16       23. Upon information and belief, Plaintiff, KESIA GLADNEY's medical specials are  
17 in excess or equal to Forty-Five Thousand Eight Hundred Thirty-One Dollars & 60/100  
18 (\$45,831.60), with future medical specials and pain and suffering of an undetermined amount.  
19 As a result, the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00).

20       24. The United States District Court for the District of Nevada has original  
21 jurisdiction pursuant to 28 U.S.C. § 1332 in that the parties are citizens of different States and the  
22 amount in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00)  
23 exclusive of interests and costs.

1           25.       Accordingly, Plaintiff's Complaint is removed pursuant to 28 U.S.C. 1441, which  
2 provides that a defendant may remove a case over which the federal court has original jurisdiction.

3           26. A copy of all process and pleadings served upon the Defendant is attached hereto  
4           as Exhibit "2."

6 WHEREFORE, Defendant, ALBERTSONS, LLC, a Delaware limited liability company  
7 respectfully requests that this action proceed in this Court as an action properly removed to it.

8 DATED this 8<sup>th</sup> day of September 2020.

BRANDON | SMERBER LAW FIRM

/s/ Lew Brandon, Jr., Esq.  
**LEW BRANDON, JR., ESQ.**  
Nevada Bar No. 5880  
**ANDREW GUZIK, ESQ.**  
Nevada Bar No. 12758  
**SARA PASQUALE, ESQ.**  
Nevada Bar No. 14412  
139 East Warm Springs Road  
Las Vegas, Nevada 89119  
*Attorneys for Defendant,*  
**ALBERTSON'S, LLC**

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I hereby certify that on the 8<sup>th</sup> day of September, 2020, I served a true and correct copy of the foregoing **DEFENDANT ALBERTSONS, LLC'S NOTICE OF REMOVAL OF ACTION TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a)** via the Court's electronic filing and service systems to all parties on the current service list, as follows:

Cory J. Hilton, Esq.  
Peter M. Angulo, Esq.  
Mountain Vista Law Group  
5545 S. Mountain Vista Street, Suite F  
Las Vegas, NV 89120  
*Attorney for Plaintiff,*  
**KESIA GLADNEY**

/s/ Bonita Alexander  
An Employee of BRANDON | SMERBER LAW FIRM

**BRANDON | SMERBER**  
LAW FIRM